

Where a creditor issues execution and sheriff collects the money, but surety of debtor in ignorance of fact that sheriff has collected it pays creditor, this operates as an equitable assignment to surety of creditor's claim against sheriff. *Merryman v. State*, 5 H. & J. 426.

As to whether a judgment against principal is admissible in evidence in a suit against surety, see *Beall v. Beck*, 3 H. & McH. 242, and note (a).

For a rejoinder, in a suit on a sheriff's bond for returning a writ of attachment so negligently that it was quashed, held bad, see *Proprietary v. Wright*, 1 H. & McH. 49.

For cases apparently now inapplicable to this section by reason of changes in the law, see *State v. Baden*, 11 Md. 317; *State v. Lawson*, 2 Gill, 62.

Cited but not construed in *Ringgold's Case*, 1 Bl. 25.

See art. 20, sec. 2, and notes.

An. Code, 1924, sec. 3. 1912, sec. 3. 1904, sec. 3. 1888, sec. 3. 1794, ch. 54, sec. 8.

3. He shall give such bond in each year of his sheriffalty before the first day of January in each year; and the bond shall be recorded by the clerk administering the oath of office.

A plea alleging that a bond was not executed within prescribed time as bond of sheriff first returned to execute as duly elected is bad unless it further alleges that bond was not legally executed and attested as bond of second so returned. *State v. Harrison*, 9 G. & J. 18.

See notes to sec. 2.

An. Code, 1924, sec. 4. 1912, sec. 4. 1904, sec. 4. 1888, sec. 4. 1794, ch. 54, sec. 8.
1867, ch. 314.

4. If any sheriff in office prior to the first day of any January next preceding shall fail to give and offer for record the bond required in the preceding section within ninety days after the said first day of January, it shall be the duty of the clerks of the circuit courts for the respective counties or of the clerk of the superior court of Baltimore City, as the case may be, to give notice forthwith of such failure to the governor of the State, whose duty it shall be at once to require the attorney general to institute the proper proceedings to vacate the office of said sheriff and upon said vacation to appoint a successor until the next general election. If the bond hereinbefore required be filed within ninety days after the first day of January in any year, it shall, in addition to the provisions hereinbefore required, be so conditioned as to make the obligors in such bond responsible also for all official acts of said sheriff committed or done by him from the said first day of January up to the date of the filing of the said bond as well as thereafter.

Cited but not construed in *Ringgold's Case*, 1 Bl. 25.

See notes to sec. 2.

Service of Process, Civil and Criminal, and Proceedings in Cases of Failure to Make Due Return.

An. Code, 1924, sec. 5. 1912, sec. 5. 1904, sec. 5. 1888, sec. 5. 1785, ch. 72, sec. 23.
1794, ch. 54, sec. 1. 1798, ch. 101, sub-ch. 15, sec. 14. 1817, ch. 139, sec. 6.

5. All writs and process shall be directed to the sheriff, unless he is disqualified, or except in cases where by law the writ or process may be directed to another officer.

An execution should be directed to acting sheriff, although former sheriff has issued and returned an attachment levied prior thereto on same judgment. Otherwise, the execution will be quashed. *Johnson v. Foran*, 58 Md. 149.

As to process, see art. 75, sec. 153, *et seq.*

An. Code, 1924, sec. 6. 1912, sec. 6. 1904, sec. 6. 1888, sec. 6. 1817, ch. 139, sec. 6.

6. He shall serve and return all writs and process directed to him according to the command contained therein.